

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

PAVEL GIGOV,	§	No. 1:21-CV-692-DAE
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
VISHAL DAVE,	§	
	§	
Defendant.	§	
_____	§	

JUDGMENT IN CIVIL CASE

This case arises out of the allegedly discriminatory denial of a non-smoking room at the Days Inn in South Austin to Plaintiff Pavel Gigov (“Plaintiff”) by Days Inn employee Vishal Dave (“Defendant”). Gigov brought this action against Dave pursuant to the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12181(7)(a) and the Texas Human Resources Code, Tex. Hum. Res. Code § 121.003. (Dkt. # 1.)

The Court presided over a one-day bench trial on August 16, 2023. At the outset of the proceedings, the parties orally waived findings of fact and conclusions of law pursuant to Fed. R. Civ. P. 52, but the Court nevertheless makes the following findings and conclusions in support of its final judgment.

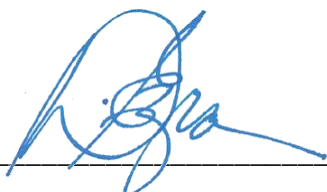
The Court has carefully assessed the credibility of the witnesses and considered the documents admitted as evidence.

The Court finds that Gigov did not carry his burden of proof to demonstrate that Dave denied him access to a non-smoking room on the basis of Gigov's disability, namely, his service animal. Instead, the record reflects a technological error in processing the reservation made by Gigov's girlfriend, designating their desired room a smoking room, rather than non-smoking. While there may have been some negligence on the part of the Days Inn, in failing to record the right reservation type, the non-smoking rooms were occupied that evening, and credible testimony established that Dave failed to accommodate Gigov in a non-smoking room¹ for this reason, not because of his service animal.

Accordingly, the Court enters judgment for Dave. This order constitutes **FINAL JUDGMENT**. The Clerk of Court is instructed to **CLOSE THIS CASE**.

IT IS SO ORDERED.

DATED: Austin, Texas, August 18, 2023.



David Alan Ezra
Senior United States District Judge

¹ The reservation in the Days Inn record showed a reservation for a smoking room—it is impossible to determine if this error was on the part of Days Inn or Expedia, where the reservation was made by Gigov's then-girlfriend.